APPEAL NO. 022627
FILED NOVEMBER 15, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on September 18, 2002. This case consists of two docket numbers with two issues. In (Docket No. 1), an extent-of-injury issue, the hearing officer determined that the appellant's (claimant) compensable (low back among other conditions) injury of (date of injury for Docket No. 1), includes an injury to the low back consisting of lumbar radiculopathy and lumbar strain/sprain. That determination has not been appealed and has become final pursuant to Section 410.169. In (Docket No. 2), the hearing officer determined that the claimant did not sustain a (new) compensable injury on (date of injury for Docket No. 2).

The claimant appeals the hearing officer's determination on the 2001 claimed injury, pointing to exhibits and testimony supporting the claimant's position that he sustained a new injury on (date of injury for Docket No. 2), and quoting from one of the treating doctor's reports. The respondent's (self-insured) response summarizes evidence contrary to the claimant's arguments and urges affirmance.

DECISION

Affirmed.

We do not review the October 26, 1999, injury at issue here. The parties seem to agree that the real question is whether the claimant sustained a new low back injury on (date of injury for Docket No. 2). The claimant clearly has had a number of injuries both before and after (date of injury for Docket No. 2), with documented back complaints as far back as 1995. The claimant was in a serious compensable motor vehicle accident in October 1999 but returned to work sometime around April 2000. The claimant was also working concurrent employment and sustained an injury (or noninjury according to the claimant) on June 1 or June 6, 2001, where the claimant saw a doctor with low back complaints but was released back to work without restrictions. The claimant also saw another doctor on July 24, 2001 (two days prior to the claimed [date of injury for Docket No. 2]) who recited a history of "aggravated his lumbar region last week" and related the complaints to the October 1999 injury. The claimant, a gardener for the self-insured, testified that the lawnmower he was riding on (date of injury for Docket No. 2), struck a hole jarring him and that he sustained a new compensable injury at that time. The claimant's contention is supported by his treating doctor. Other medical evidence is subject to differing interpretations.

The evidence was clearly in conflict and presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the

evidence and deciding what facts the evidence had established. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

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Thomas A. Knapp
Appeals Judge

CONCUR:

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Elaine M. Chaney
Appeals Judge

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Robert W. Potts
Appeals Judge